

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

STEVEN D. WESTFALL,

Plaintiff,

v.

CIVIL ACTION NO. 2:06 CV 85
(Maxwell)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER

It will be recalled that the above-styled social security appeal was instituted on August 29, 2006, with the filing of a Complaint by *pro se* Plaintiff Steven D. Westfall.

It will further be recalled that the case was referred to United States Magistrate Judge James E. Seibert in accordance with Rule 83.12 of the Local Rules of General Practice and Procedure.

On December 1, 2006, Magistrate Judge Seibert entered a Report And Recommendation Recommending Plaintiff's Motion To Dismiss Be Granted (Docket No. 13) wherein he recommended that a Motion To Dismiss Complaint filed by the *pro se* Plaintiff on November 30, 2006, be granted. In said Report And Recommendation Recommending Plaintiff's Motion To Dismiss Be Granted, the parties were directed, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e) of the

Federal Rules of Civil Procedure, to file any written objections thereto with the Clerk of Court within ten (10) days after being served with a copy of said Report And Recommendation. Magistrate Judge Seibert's Report And Recommendation Recommending Plaintiff's Motion To Dismiss Be Granted expressly provided that a failure to timely file objections would result in waiver of the right to appeal from a judgment of this Court based thereon.

The docket in the above-styled civil action reflects that no objections to Magistrate Judge Seibert's December 1, 2006, Report And Recommendation Recommending Plaintiff's Motion To Dismiss Be Granted have been filed.

Upon consideration of said Report and Recommendation Recommending Plaintiff's Motion To Dismiss Be Granted, and having received no written objections thereto¹, the Court accepts and approves the Report And Recommendation Recommending Plaintiff's Motion To Dismiss Be Granted. Therefore, it is

ORDERED that Magistrate Judge Seibert's Report And Recommendation Recommending Plaintiff's Motion To Dismiss Be Granted (Docket No. 13) be, and is hereby, **ACCEPTED** in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly,

¹The failure of the parties to object to the Report And Recommendation not only waives their appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

1. The Plaintiff's Motion To Dismiss Complaint (Docket No. 12) is
GRANTED;
2. The above-styled civil action is **DISMISSED without prejudice** and
RETIRED from the docket of this Court.

The Clerk of Court is directed to transmit copies of this Order to counsel of record.

ENTER: December 15th, 2006


United States District Judge